

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

CHARLES L. EKSTAM and FUEL )  
PREPORATOR INTERNATIONAL, INC., )

Plaintiffs, )

vs. )

Case No. 4:04CV00187 AGF

C. BRAD EKSTAM, DIESEL )  
PERFORMANCE PRODUCTS, INC., and )  
C. BRAD EKSTAM d/b/a DIESEL )  
PERFORMANCE PRODUCTS CO., )

Defendants. )

**ORDER**

This matter is before the Court on the Defendants' Motion to Compel [Doc. #101] and Motion for Leave to File Expert Report under Seal [Doc. #102], both filed on October 16, 2006, and Defendant's Motion for Leave to Add Prior Art [Doc. #104], which motions relate to the parties' compliance with the Court's amended Case Management Order (the "CMO"). Upon careful review of the motions and memoranda filed by the parties,

**IT IS HEREBY ORDERED** that Defendants' Motion to Compel [Doc. #101] is **GRANTED in part and DENIED in part**, as follows:

1. On or before **November 22, 2006**, Plaintiffs shall disclose which patents cited by Defendants as prior art Plaintiffs contend were not issued before the invention of the '860 patent or were not patented more than one year prior to the filing date of the '860

patent's application.

2. Except granted herein, Plaintiffs' motion to compel is **Denied**.

**IT IS FURTHER ORDERED** that Defendants' Motion to File Expert Report under seal [Doc. #102] is **DENIED**, and the schedule for disclosing expert witnesses is amended as follows:

1. Defendants shall disclose their expert witnesses and provide their expert reports on any issues on which they bear the burden of proof on or before **November 20, 2006**.

2. Plaintiffs shall have until **December 31, 2006** to disclose their expert witnesses and provide their expert reports in opposition to Defendants' initial expert reports disclosed pursuant to paragraph 1, above.

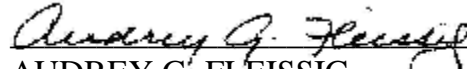
3. Plaintiffs having already provided their expert report(s) on issues on which they bear the burden of proof, Defendants shall disclose their expert witnesses and provide their expert reports in opposition to Plaintiffs' initial expert reports on or before **December 8, 2006**.

4. The parties shall simultaneously disclose any rebuttal expert witnesses and provide rebuttal expert reports by **January 22, 2006**.

5. Except as amended herein (and absent agreement by the parties for further amendment), the schedule with regard to the disclosures and depositions of expert witnesses set forth in the amended CMO shall remain unchanged.

**IT IS FURTHER ORDERED**, no opposition having been filed by Plaintiffs, that

Defendants' Motion for Leave of Court to Add Prior Art [Doc. #104], is **GRANTED**.

  
AUDREY G. FLEISSIG  
United States Magistrate Judge

Dated this 15th day of November, 2006.